elected invention. Claims 1-16 remain pending and await further consideration on the merits.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(A)

Claims 1-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Diebold et al.* in view of *Ovshinsky et al.* on the grounds set forth in paragraph 3 of the Official Action. For at least the reasons noted below, the rejection should be withdraw.

The present invention is directed to an electrochemical test device suitable for determining the presence for concentration of chemical and biochemical components and aqueous fluid samples and body fluids such as whole blood. Through the unique construction of the electrochemical test device of presently claimed invention, including the use of amorphous semiconductor materials and a flexible substrate, uniform electrochemical test devices having well-defined reproducible electrode areas can be manufactured economically and accurately.

An electrochemical test device constructed according to the principles of the present invention is embodied in amended claim 1. The electro chemical device recited therein includes, *inter alia*, "a non-conductive surface comprising a non-conductive coating affixed to one side of a flexible material" and "a working electrode comprising and amorphous semiconductor material affixed to the non-conductive surface". Neither *Diebold et al.* or *Ovshinsky et al* taken alone or in combination disclose or suggest an electrochemical test device having the features recited in claim 1 of the present invention.

Diebold et al. discloses forming an electro chemical test device utilizing conventional rigid substrate materials and conventional brittle noble metal electrode materials. *Diebold et al.* does not disclose nor suggest the use of any of type of semiconductor material affixed to a non-conductive surface comprising a non-conductive coating affixed to one side of a flexible material as required by claim 1 of the present invention. The distinctions between the device of *Diebold et al.* and that of the presently claimed invention are illustrated, for example by reference to Figure 7D contained therein. As illustrated in Figure 7A-7D, a brittle noble metal (61) is applied to a polymer support layer 62. This metalized support 63 is then applied to an insulating substrate 64 which is disclosed as comprising a fiberglass circuit board material. As discussed on page 4 of the present specification, such brittle noble metal electrode materials must be applied in a manner such that it is rigidly supported in order to prevent cracking.

This is in distinct contrast to the use of a flexible substrate material having a non-conductive coating applied thereto as recited in claim 1 of the present invention.

Moreover, the amorphous semiconductor material of the present invention further allows the device of the present invention to possess a flexibility that is not present in the device of *Diebold et al.*

Ovshinsky et al. is directed to a technique for making solar cells. *Ovshinsky et al.* is clearly not directed to an electrochemical test device or its method of production as required by claim 1 of the claimed invention. The device and the techniques disclosed by

Ovshinsky et al. do not address the problems associated with the use of conventional conductor and semiconductor materials and electrochemical test devices.

Thus, it is asserted that one of ordinary skill in the art would not have looked to *Ovshinsky et al.*, in an attempt to modify the teachings of *Diebold et al.* absent a hindsight reconstruction assisted by Applicants own disclosure.

Moreover, even if one of ordinary skill in the art were to confine the teachings of *Ovshinsky et al.*, the devices recited in claim 1 of the present application would not result.

While *Ovshinsky et al.* does mention a use of amorphous semiconductor materials, *Ovshinsky et al.* clearly teaches the attachment of a semiconductor material to a substrate (e.g. 72) "having good electrical conductivity properties under dark as well as light conditions, and the ability of making an ohmic contact with an amorphous silicon film 65." Thus, *Ovshinsky et al.* clearly teaches applying an amorphous semiconductor material to an electrically conductive surface. By contrast, claim 1 requires an amorphous semiconductor material applied to a non conductive surface which comprises a non conductive coating affixed to one side of a flexible material.

Therefore, not only does *Ovshinsky et al.* not analogous, its teachings would lead one of ordinary skill in the art even further away from the device as recited in claim 1.

Claims 2-16 depend either directly or indirectly from claim 1. Therefore, claims 2-16 are also distinguishable over the combination of record for at least the same reasons noted above.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Thank you. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expected.

Respectfully submitted,

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